GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Social Welfare Department – Appeal petition filed by Smt. Putheti Prameela, D/o Putheti Ramanaiah, against the proceedings No.Rc.C5(M)/1324/2009, dated 29.01.2013 of the District Collector, SPSR Nellore, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition allowed – Orders -Issued.

SOCIAL WELFARE (CV.1) DEPARTMENT

G.O.Ms.No.88

Dated:12.06.2018
Read the following:

1. Proceedings of the District Collector, SPSR Nellore, Rc.C5(M)/1324/2009, dated: 29.01.2013.
2. Appeal petition filed by Smt.Putheti Prameela D/o. Putheti Ramanaiah, Hyderabad, dt:08.2.2013 , before the Honble M(SW), Endt. Note. No.42/N(SW)/13, dated 11.02.2013.
3. Govt. Memo.No.2261/CV.I/2013, dated: 26.02.2013.
4. From the District Collector, SPSR Nellore, Lr.Rc.C5(M)1324/2009, dated 05.02.2015.
5. Govt. Memo.No.2261/CV.I/2013, dated : 18.11.2015, 29.04.2015 & 30.11.2016.
6. Written arguments file by appellant before the Appellate Authority on 24.12.2016.
7. Govt. Memo.No.2261/CV.I/2013, dated : 11.01.2017, 24.05.2017, 30.11.2017, 30.01.2018 & 20.03.2018.
8. Written arguments file by appellant before the Appellate Authority on 07.04.2018.

<><><>

ORDER:

In the reference 1st read above, the District Collector, SPSR Nellore has issued orders canceling the SC – Samban caste certificates obtained from Revenue Divisional Officer, Kavali in the years 1991, 1993 & 1994 by Smt. Putheti Prameela, D/o Ramanaiah.

2. In the reference 2nd read above, Smt. Putheti Prameela, D/o Ramanaiah, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, SPSR Nellore. After examining the said Appeal Petition, Government have admitted the Appeal Petition and granted stay on the proceedings of the District Collector, SPSR Nellore dated 29.01.2013 and called for the parawise remarks and connected records from the District Collector, SPSR Nellore in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, SPSR Nellore has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Smt. Putheti Prameela, D/o Ramanaiah.

4. The said Appeal Petition has been posted for hearing on 28.11.2015, 14.05.2016,24.12.2016, 24.01.2017, 17.06.2017, 16.12.2017, 17.02.2018 & finally on 07.04.2018 and the same has been informed to the Appellant and the Counsel for the Appellant in the references 5th & 7th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. The appellant has filed written arguments and documents before the Appellate Authority on 24.12.2016 & 07.04.2018, in support of her SC-Samban community claim, in the reference 6th & 8th read above.

5. After hearing both the sides and on perusal of the records/ the copies of evidences/ academic record/ grounds filed by the Appellant/ the parawise remarks submitted by the District Collector, SPSR Nellore and proceedings of the District

[P.T.O]

Collector, SPSR Nellore, dated 29.01.2013, the Appellate Authority has observed that:

I. The appellant in her grounds has stated that the R.D.O., Kavali submitted in his report that the petitioner does not belong to SAMBAN (S.C.) Caste. He said to have relied on the Sale Deed documents of the appellant forefathers in which their caste was mentioned as SAMBUNI KAPU. Therefore, the appellant caste is undoubtedly SAMBUNI KAPU but not SAMBAN. But the R.D.O. deliberately over looked to see the Gazette on India of 1955 wherein it was notified that the SAMBUNI KAPU was synonym to SAMBAN which is in the list of Scheduled Caste as notified by the President of India. A Xerox of the Gazette was submitted to the R.D.O., Kavali at the time of enquiry. He failed to see the G.O.No.85 of the Social Welfare Department, Govt. of A.P., dt.21.10.2005 wherein it was confirmed the Synonimity of SAMBUNI KAPU caste to that of SAMBAN (SC). He also failed to see the proceedings of the Dist. Collector, Nellore No.(M) C5/1505/2004, dt.23.02.2006 a copy of which was sent to him by the Collector and the appellant also submitted a Xerox copy of the same at the time of enquiry. In the above proceedings the Collector amply clarified the synonymous position between SAMBUNI KAPU and SAMBAN and directed him to grant Caste Certificates basing on the registered Sale Deed of the Pre Independent/ Pre Republic days. The R.D.O. must have had issued many certificates of SAMBAN caste during his tenure at Kavali division. Forgetting all the above he now in his enquiry report he has stated that the appellant caste is SAMBUNI KAPU only and the R.D.O. must have equated in his wisdom with other O.C. Kapus such as PANTA KAPU, PEDAKANTI KAPU etc., which is not correct. Mr. Edgar Thurston an authority on Caste and Tribes dealt exhaustively in his volume-III about Kapu Caste. In that no where he mentioned the name of SAMBUNI KAPU. Further, the Thurston in his Volume-VI at Page No.291 wrote about SAMBUNI KAPU under the heading SAMBAN it means SAMBUNI KAPU are SAMBAN's only. Though a Xerox copy of the same was handed over to the R.D.O., at the time of enquiry, the R.D.O. conveniently avoided to refer the same for the reasons known to him.

II. The appellant in her grounds has also stated that the R.D.O. further reported, the appellant must have misrepresented the facts with a view to get reservation benefits and obtained S.C. Certificate. The Appellant submitted a Xerox copy of M.R.O., ALLUR detailed enquiry report bearing No. Rc. A.1017 of 1993 dated: 16.12.1993. This is an exhaust report of SAMBAN families living, with their surnames, social and financial status etc. The R.D.O. also failed to see that the Caste of the Appellants forefathers devolves upon their children automatically and from them to their progeny. But he asked for school records of 70 years old and the school records are not conclusive proof nor they have any authority. Further he has also stated that the committee failed to take into consideration the fact finding report of the M.R.O., Allur, dated: 10.12.1993. (2) The Gazette of India of 1955, (3) the G.O.Ms.No.85, of Govt. of A.P. Social Welfare Department, dt.21.10.2005, (4) the then Collectors Proceedings No. (M) C5/1505/2004, dt.23.02.2006 and (5) the Judgment of the Honorable High Court of A.P. in their W.P.No.19125 of 2008 wherein the Synonimity of SAMBUNI KAPU to SAMBAN is yet to be finalized.

III. The District Level Scrutiny Committee has observed that the main document which decides the caste status of Smt.Putheti Prameela D/o Ramanaiah is the sale document executed by her forefathers, in which their caste was mentioned as Sambhunikapu, but not Samban. The appellant has not furnished the school records of her father which plays important role to decide her caste. Further, according to Thurston, the Historian, the people of Samban caste have migrated to Andhra from Tamilnadu State and that the mother tongue of the people of Samban caste or their ancestors is Tamil, whereas the mother tongue of the appellant herein is Telugu. They have also observed that the then MRO, Allur has not thoroughly verified the anthropological and ethnological traits, deity, rituals, customs, mode of marriage, language, details of migration if any, death ceremonies/method of burial of dead bodies etc., of that particular caste, stigma of untouchability, social discrimination, nativity/residence of the individual. Based on the findings of the DLSC, the District Collector has cancelled the appellant's caste certificate.

[Contd..]

IV. Under section 6(3) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

V. The Hon'ble High Court of A.P., in W.P.No.19125/2008, have passed orders on 4.9.2008, that "till further orders no certificate giving status of scheduled caste shall be issued to Shambunikapu caste people". The outcome of the judgment is yet to be received in this regard.

VI. The Appellate Authority is observed that during the course of hearing of the case, the appellant submitted her arguments as per her grounds in appeal petition and stated that the lower authority failed to consider that Sambhunikapu caste and Samban caste is one and the same and the same is earlier confirmed as synonym and as seen from the sale document of her forefathers shows the same and taking into consideration of the said sale deed where in caste was mentioned as sambhunikapu that her case be considered to conclude her Community as SC Samban. That the appellant also filed a GO issued by the Government to her sister and on perusal of the said Government Order in G.O.Ms.No.11 Social Welfare (CV.1)Department dated 27-03-2006 that the appeal petition filed by Kum.Putheti Amritha D/o P.Ramanaiah, allowed the appeal and upheld that her caste status is Samban SC and further issued memo informing that the said order is final and the caste status of the appellant as Samban SC is upheld forever and also no further enquiry is to be taken up by the Memo No.7459/CV.1/2006-1 Social Welfare (CV.1) Department 26-08-2006. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that the present appellant is none other than the sister of the above person whose caste is upheld in the said GO as she is SC Samban, as such the present case is also be determine as per the said observations. That the case of the present appellant also considered as per the case of her sister as the both are falls under same category. That as per the act that the burden of proving that the appellant belongs to particular caste shall be on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. That the appellant by producing the GO of her sister caste claim able to discharged her burden. That taking consideration of the above and the material available on the record, it can be concluded that the lower authority failed to observe the finding of the concerned above.

6. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No.16 of 1993), hereby allowed the Appeal Petition filed by Smt. Putheti Prameela, D/o Ramanaiah, by upholding her Scheduled Caste(Samban) community claim and SC-Samban caste certificate issued by the then Revenue Divisional Officer, Kavali and the Proceedings of the District Collector, SPSR Nellore issued in the reference 1st read above are set- aside.

7. The District Collector, SPSR Nellore is directed to take necessary consequential action in the matter.

8. The records (containing Rc.C5(M)1324/2009, pages 1 to 414) received from the District Collector, SPSR Nellore through the reference 4th read above, are returned herewith in original to the District Collector, SPSR Nellore and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, SPSR Nellore.(w.e)
(with original records) (BY RPAD)

[Contd..]

Smt. Putheti Prameela,
Qtr No: D2-234, Pulicant Nagar,
Sullurpeta- 524 121.

Sri A. Sajeeva Narayan, Advocate,
1-9-18/2/5, Ramnagar, Hyderabad – 500 020.

The Controller, SDSC SHAR,
Satish Dhawan Space Centre SHAR,
Sriharikota Range P.O.524 121,
SPSR Nellore District.

Copy to:
The PS to M(SWE&TWE)
The P.S. to Principal Secretary(SW&TW)

// FORWARDED:: BY ORDER //

SECTION OFFICER